

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

TELEPHONE: (303) 740-1980

INTELLECTUAL PROPERTY LAW
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

FACSIMILE: (303) 740-6962

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

FACSIMILE COVER SHEET

Deliver to: Lee, Phillip C., USPTO Art Group: 2154
 Facsimile No.: (571) 273-8300 Date: February 29, 2008
 From: Brent E. Vecchia, Reg. No. 48,011
 Our Docket No.: 42390P11076 Number of pages 18 including this sheet.
 Application No.: 09/877,687 Filing Date: 6/8/2001
 Docket Due Date(s): 3/2/2008

Enclosed are the following documents:

<input type="checkbox"/> Amendment: _____ (____ pgs)	<input type="checkbox"/> Issue Fee Transmittal
<input checked="" type="checkbox"/> REPLY Brief (<u>14</u> pgs)	<input type="checkbox"/> Notice of Appeal (in duplicate)
<input type="checkbox"/> Application: _____ (____ pgs) w/cover & abstract)	<input type="checkbox"/> Petition for: _____
<input type="checkbox"/> Assignment & Cover Sheet (____ pgs)	<input type="checkbox"/> Request for Continued Examination (RCE)
<input checked="" type="checkbox"/> Certificate of Facsimile	<input type="checkbox"/> Reply Brief (____ pgs)
<input type="checkbox"/> Continued Prosecution Application (CPA)	<input type="checkbox"/> Request & Certification Under 35 USC 122(b)(2)(B)(i)
<input type="checkbox"/> Declaration & POA (____ pgs)	<input type="checkbox"/> Request to Rescind Previous Nonpublication Request
<input type="checkbox"/> Drawings: ____ sheets, ____ figures	<input type="checkbox"/> Response to Notice of Missing Parts & Formalities Letter
<input type="checkbox"/> Extension of Time: _____	<input type="checkbox"/> Response to Written Opinion (____ pgs)
<input checked="" type="checkbox"/> Fee Transmittal (in duplicate)	<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> IDS & PTO/SB/08 (____ pgs)	<input type="checkbox"/> Transmittal of Publication Fee Due
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Transmittal Letter

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.84)

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.

Wendi Lou Rostan 2/29/2008
 Wendi Lou Rostan Date

Confidentiality Note: The documents accompanying this facsimile transmission contain information from the law firm of Blakely, Sokoloff, Taylor & Zafman which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

If you do not receive all the pages, or if there is any difficulty in receiving, please call: (303) 740-1980 and ask for Wendi Lou Rostan.

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/877,687
		Filing Date	June 8, 2001
		First Named Inventor	Yen-Kuang Chen
		Art Unit	2154
		Examiner Name	Lee, Phillip C.
Total Number of Pages in This Submission	18	Attorney Docket Number	42390P11076

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">Facsimile Cover Sheet</div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Brent E. Vecchia, Reg. No. 48,011 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	<i>Brent E. Vecchia</i>
Date	February 29, 2008

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being transmitted via facsimile on the date shown below to the United States Patent and Trademark Office.			
Typed or printed name	Wendi Lou Rostan		
Signature	<i>Wendi Lou Rostan</i>	Date	February 29, 2008

Based on PTO/SB/21 (10-07) as modified by Blakely, Sokoloff, Taylor & Zafman (w/ 10/05/2007
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

**FEE TRANSMITTAL
for FY 2007**

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	09/877,687
Filing Date	June 8, 2001
First Named Inventor	Yen-Kuang Chen
Examiner Name	Lee, Phillip C.
Art Unit	2154
Attorney Docket No.	42390P11076

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.☒ Credit any overpayments**FEE CALCULATION**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	460	2252	230	Extension for reply within second month	
1253	1,050	2253	525	Extension for reply within third month	
1254	1,640	2254	820	Extension for reply within fourth month	
1255	2,230	2255	1,115	Extension for reply within fifth month	
1401	510	2401	255	Notice of Appeal	
1402	510	2402	255	Filing a brief in support of an appeal	
1403	1,030	2403	515	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	810	1809	405	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	810	2810	405	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)					(\$)

SUBMITTED BY

Name (Print/Type)	Brent E. Vecchia	Registration No. (Attorney/Agent)	48,011	Telephone	(303) 740-1980
Signature	<i>Brent E. Vecchia</i>	Date	02/29/08		

Based on PTO/SB/17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (w/12/15/2004).
 SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

FEE TRANSMITTAL for FY 2007 <small>Patent fees are subject to annual revision.</small>	<i>Complete if Known</i>	
	Application Number	09/877,687
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.	Filing Date	June 8, 2001
	First Named Inventor	Yen-Kuang Chen
	Examiner Name	Lee, Phillip C.
	Art Unit	2154
TOTAL AMOUNT OF PAYMENT (\$)	Attorney Docket No.	42390P11076

METHOD OF PAYMENT (check all that apply)

☐ Check
 ☐ Credit card
 ☐ Money Order
 ☐ None
 ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below
 ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
 ☒ Credit any overpayments

FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	480	2252	230	Extension for reply within second month	
1253	1,050	2253	525	Extension for reply within third month	
1254	1,640	2254	820	Extension for reply within fourth month	
1255	2,230	2255	1,115	Extension for reply within fifth month	
1401	510	2401	255	Notice of Appeal	
1402	510	2402	255	Filing a brief in support of an appeal	
1403	1,030	2403	515	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	810	1809	405	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	810	2810	405	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2) (\$)					

SUBMITTED BY		<i>Complete (if applicable)</i>	
Name (Print/Type)	Brent E. Vecchia	Registration No. (Attorney/Agent)	48,011
Signature	<i>Brent E. Vecchia</i>	Telephone	(303) 740-1980
		Date	02/29/08

Based on PTO/GB-17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (Wtr) 12/15/2004.
 SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

RECEIVED
CENTRAL FAX CENT

FEB 29 2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application. No. : 09/877,687
1st Named Inventor : Matthew J. Holliman
Filed : May 21, 2007
Docket No. : 42P11076

Confirmation No. : 9438
Art Unit : 2152
Examiner : Lee, Philip C.
Customer No. : 8791

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF
IN SUPPORT OF APPELLANT'S APPEAL
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Applicants (hereafter "Appellants") hereby submit this Reply Brief in response to the Examiner's Answer mailed in the above-identified case on 1/2/08. The fees required under §41.20 for filing this Reply Brief are dealt with in the accompanying Transmittal of Appeal Brief. Appellants respectfully request consideration of this Reply Brief by the Board of Patent Appeals and Interferences for allowance of the above-captioned patent application.

An oral hearing is not desired.

Docket No. 42P11076

-1-

App. No.: 09/877,687

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

I. GROUND OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

Claims 80-82, 84, 86, 88, 91-94, 96, 100-102 and 105-107 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0073204 by Dutta et al. (hereinafter "Dutta"), U.S. Patent No. 6,687,753 issued to Schneider (hereinafter "Schneider"), U.S. Patent No. 6,778,496 issued to Meempat et al. (hereinafter "Meempat"), and U.S. Patent No. 6,965,569 issued to Carolan et al. (hereinafter "Carolan").

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

II. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

Rejection of claims 80-82, 84, 86, 88, 91-94, 96, 100-102 and 105-107 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No.

2002/0073204 by Dutta et al. (hereinafter "Dutta"), U.S. Patent No. 6,687,753 issued to Schneider (hereinafter "Schneider"), U.S. Patent No. 6,778,496 issued to Meempat et al. (hereinafter "Meempat"), and U.S. Patent No. 6,965,569 issued to Carolan et al. (hereinafter "Carolan") is improper.

GROUP I: CLAIMS 80-92, 84, 86, 88, and 91

Applicants respectfully submit that: (1) Dutta, Schneider, Meempat, and Carolan should not be combined; (2) any combination of Dutta, Schneider, Meempat, and Carolan, which combination does not even seem appropriate, still does not teach or suggest all of the limitations of claims 80; and (3) the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined

Firstly, Dutta, Schneider, Meempat, and Carolan do not contain any suggestion that they be combined, let alone that they be combined in the manner suggested by the Examiner. Accordingly, Dutta, Schneider, Meempat, and Carolan should not be combined.

Secondly, at least two of Dutta, Schneider, Meempat, and Carolan are from non-analogous arts. As discussed in the MPEP 2141.01(a), to rely on a reference under 35 U.S.C. 103, it must be analogous prior art. *"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if*

not, then be reasonably pertinent to the particular problem with which the invention was concerned.” In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). **An inventor could not possibly be aware of every teaching in every art.** In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979).

Dutta pertains to peer-to-peer data networks (see e.g., the Title).

Schneider does not appear to pertain to peer-to-peer networks. Schneider does not even mention the word “peer”. Rather, Schneider pertains to **client-server** computer networks (see e.g., the abstract and the Field of the Invention). The problems addressed in the client-server computer networks of Schneider would not logically have commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. The Examiner has failed to provide sufficient justification why methods of Schneider that reportedly are useful in a client-server environment would be useful in a peer-to-peer environment. In particular, it is well known that a server generally has much more extensive computational capabilities than a client, and approaches for providing three-dimensional graphics in a client-server environment as taught in Schneider would not necessarily have logically commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. Accordingly Dutta and Schneider are from non-analogous arts and should not be combined.

Meempat also does not appear to pertain to peer-to-peer networks. There is no mention of the word “peer” in Meempat. Column 2, lines 8-9 of Meempat mentions that “*The present invention contemplates a new and improved method and apparatus for **call management** over IP networks*”. Furthermore, column 1, lines 9-13 of Meempat mentions that “[*the present invention*] **finds particular application in conjunction with controlling admission of Voice-Over IP (VoIP) calls to a packet-based network, and efficiently selecting paths for the admitted calls,**

so as to balance the packet loads within the network". Applicants respectfully submit that the methods of **call management** discussed in Meempat should not be combined with the peer-to-peer networks of Dutta.

In the Examiner's Answer, the Examiner appears to have argued that it is the delivery of multimedia file (e.g., voice packet stream) that allows Meempat to be combined with the other references. However, Meempat does not even mention the work "multimedia". Furthermore, multimedia by definition is more than just voice calls. Accordingly, Meempat doesn't even appear to pertain to multimedia delivery. This is further reason why Meempat shouldn't be combined with the other references.

Carolan also does not appear to pertain to peer-to-peer networks. There is no mention of the word "peer" in Carolan. Rather, Carolan relates generally to the field of **unified messaging** (see e.g., the Field of Invention). Unified messaging refers to the integration of different streams of communication, for example e-mail, SMS, Fax, voice, video, etc., into a single, or, unified 'message store', that is accessible from a variety of different devices. Furthermore, Carolan specifically mentions, "*The present invention is a distributed conversion system that is **centrally managed***". See e.g., the first line of the Summary of the Invention. Applicants respectfully submit that such a distributed conversion system with central management should not be combined with the peer-to-peer networks of Dutta.

An inventor could not possibly be aware of every teaching in every art. In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979). However, the Examiner's rejection seems to require that the inventors be aware of the teachings of Dutta in the **peer-to-peer arts**, that the inventors be aware of the teachings of Schneider in the **client-server arts**, that the inventors be aware of the teachings of Meempat in the **call management arts**, and that the inventors be aware of the teachings of Carolan in the **unified messaging arts**. Applicants respectfully submit that this is inappropriate.

Accordingly, Appellants respectfully submit that Dutta, Schneider, Meempat, and Carolan are from non-analogous arts and should not be combined.

Thirdly, it seems likely that it would be necessary to make modifications that are not disclosed in the prior art in order to combine Dutta, Schneider, Meempat, and Carolan in the manner suggested by the Examiner. This is especially true given the vast differences in the technical fields of the four references.

Accordingly, for one or more of the above-identified reasons, Dutta, Schneider, Meempat, and Carolan should not be combined.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 80 pertains to a method comprising:

“a first peer node receiving an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generating a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

the first peer node converting the data into the specified format before transmitting the data to the second peer node;

transmitting the data to the second peer node in a transport specification specified by the second peer node”.

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations.

Dutta appears to be the only reference that pertains to peer-to-peer networks. However, Dutta fails to disclose many of the limitations recited in claim 80. In particular, Dutta does not disclose that a first peer node receive an inquiry for data from a second peer node that **specifies a format for the data**. Further, Dutta does not disclose transmitting the data to the second peer node in a **transport specification specified by the second peer node**. Still further, Dutta does not disclose the first peer node **converting the data into the specified format**. Yet further, Dutta does not disclose **generating a cost value based in part on the conversion of the data to the specified format**. Still further, Dutta does not disclose **adding the cost value to a packet that also includes a cost value generated by another peer node** and then providing the packet to the second peer node. Accordingly, Dutta fails to disclose many of the limitations presently recited in claim 80.

The other references, namely Schneider, Mccmpat and Carolan, do not appear to pertain to peer-to-peer networks. At least the word "*peer*" is not mentioned in any of these references. Appellants respectfully submit that it is inherently improper for the Examiner to read so many limitations from these non-peer-to-peer references into Dutta, which is the only peer-to-peer reference of the four. Furthermore, Appellants respectfully submit that the fact that the Examiner apparently was unable to find another peer-to-peer reference disclosing more of the limitations of claim 80 than Dutta (which fails to disclose many of the limitations) is evidence of non-obviousness.

The Examiner has admitted that Dutta does not teach specifying a format for the data (see e.g., page 3 of the Final Office Action), and has relied upon Schneider for that. Schneider discusses that a **client** could specify a transmission protocol and a **server** could format information to be transmitted in response to the client request. However, these are **client-server** methodologies. It is not taught in the references or obvious that these **client-server** methodologies be used in the **peer-to-peer** networks of Dutta. The motivations for doing things in a client-server environment are not necessarily the same as the motivations for doing things in

a peer-to-peer environment. In particular, servers generally have extensive computational capabilities. Many peer computers do not. Accordingly, the approaches for providing three-dimensional graphics in a client-server environment as taught in Schneider would not necessarily have logically commended themselves to an inventor's attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. Accordingly, it would not be obvious to combine the teachings of Dutta and Schneider as proposed by the Examiner.

The Examiner has admitted that Dutta and Schneider do not teach generating a cost value (see e.g., page 4 of the Final Office Action), and has relied upon Meempat for that. In particular, the Examiner has asserted that "Meempat teaches generating and adding cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to a second peer node" and relies upon column 2, lines 15-25 of Meempat. Column 2, lines 15-25 discusses:

"a method of regulating admission of packet streams to a network includes at selected times sending path status messages along a set of paths in the network. A cost metric in each path status message is updated at the intermediate nodes as the message progresses along its defined path. Based on the final cost metric values collected upon receipt of the status messages at the respective path edges, subsequent packet stream arrivals are selectively blocked or admitted to the network".

As understood by Appellants, there is no disclosure in Meempat that the cost value be generated based in part on format conversion of the data inquired by a peer node, let alone based on conversion to a format specified in an inquiry for data. Rather, as discussed in the Abstract, "The cost metric may reflect available bandwidth, or percentage utilization of the aggregate bandwidth, on the most congested (bottleneck) link in the path that it tracks". Additionally, the cost metrics discussed in Meempat are apparently used for the purpose of regulating admission of packet streams to a network. Appellants respectfully submit that the Examiner has failed to provide sufficient reasoning why it would be obvious to use these cost metrics used for regulating admission of packet streams to a network in a peer-to-peer environment where the cost metrics are based on format conversion.

The Examiner has admitted that Dutta, Schneider, and Meempal do not teach that the cost value is based in part on conversion (see e.g., page 4 of the Final Office Action), and has relied upon Carolan for that. Carolan pertains to unified messaging. Carolan specifically mentions *"The present invention is a distributed conversion system that is centrally managed"*. See e.g., the first line of the Summary of the Invention. Applicants respectfully submit that the Examiner has failed sufficiently establish that it is obvious to take pieces from this unified messaging distributed conversion system with central management and apply them to the peer-to-peer networks of Dutta.

Furthermore, in Carolan the user's computer 132 provides the data to be converted to the distributed conversion system 100 composed of a number of different computing platforms 102, 104, 106, 108, 110, 112, 114, 116, 118, and 122 so that the system can convert it. In contrast, claim 80 recites that the second peer node asks for the data from the first peer node which is the node that does the format conversion.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

In particular, the Examiner has the present patent application as a guide or roadmap and has combined pieces of four references from different and non-analogous arts in order to meet the limitations of the claims. However, Applicants respectfully submit that such hindsight reconstruction is improper. Those skilled in the art would not reasonably combine these pieces of these four references from such different and non-analogous arts as peer-to-peer, client-server, call management, and unified messaging, in order to arrive at the claimed inventions. It is only based on the Examiner using the present patent application as a guide or roadmap that this has been achieved. Such hindsight reconstruction is improper.

For at least one or more of these reasons, claim 80 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

GROUP II: CLAIMS 92-94, 96, and 100**(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined**

Applicants respectfully submit that Dutta, Schneider, Meempat, and Carolan should not be combined. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 92 pertains to:

"An article comprising a computer-readable medium which stores computer-executable instructions, the instructions causing a first peer node to:

receive an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generate a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format; and

transmit the converted data in the specified format to the second peer node in a transport protocol as specified by the second peer node, wherein the specified transport protocol is a User Datagram Protocol (UDP)".

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

For at least one or more of these reasons, claim 92 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

GROUP III: CLAIMS 101-102 and 105-107

(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined

Applicants respectfully submit that Dutta, Schneider, Meempat, and Carolan should not be combined. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 101 pertains to a system comprising:

*"a processing unit;
a memory device;
a network interconnection; and
a first unit to cause the system to,
process an inquiry for data from a peer node, the inquiry including a user specified search string and specifying a format for the data,*

*generate a cost value based in part on conversion of the data to the specified format, adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;
convert the data to the specified format before transmitting the data to the peer node, and transmit the data to the peer node in a transport protocol specified by the peer node, wherein the transport protocol is User Datagram Protocol".*

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

For at least one or more of these reasons, claim 101 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

RECEIVED
CENTRAL FAX CENTER

FEB 29 2008

CONCLUSION

Based on the foregoing, Appellants request that the Board overturn the rejection of all pending claims and hold that all of the claims of the present application are allowable.

Appellants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

Please charge any shortages and credit any overpayment to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 2/29/08

By

Brent E. Vecchia

Brent E. Vecchia, Reg. No. 48,011

Tel.: (303) 740-1980 (Mountain Time)

1279 Oakmead Parkway
Sunnyvale, California 94085-4040